

§ 293.101

5 CFR Ch. I (1–11 Edition)

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AUTHORITY: 5 U.S.C. 552 and 4315; E.O. 12107 (December 28, 1978), 3 CFR 1954–1958 Comp.; 5 U.S.C. 1103, 1104, and 1302; 5 CFR 7.2; E.O. 9830; 3 CFR 1943–1948 Comp.; 5 U.S.C. 2951(2) and 3301; and E.O. 12107.

SOURCE: 44 FR 65033, Nov. 9, 1979, unless otherwise noted.

**Subpart A—Basic Policies on Maintenance of Personnel Records**

**§ 293.101 Purpose and scope.**

(a) This subpart sets forth basic policies governing the creation, development, maintenance, processing, use, dissemination, and safeguarding of personnel records which the Office of Personnel Management requires agencies to maintain in the personnel management or personnel policy setting process.

(b) Agencies in the Executive Branch of the Federal Government are subject to specific Office of Personnel Management recordkeeping requirements to varying degrees, pursuant to statute, Office regulation, or formal agreements between the Office and agencies. This subpart applies to any department

or independent establishment in the Executive Branch of the Federal Government, including a government corporation or Government controlled corporation, except those specifically excluded from Office recordkeeping requirements by statute, Office regulation, or formal agreement between the Office and that agency.

**§ 293.102 Definitions.**

In this part:

*Agency* means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the Executive Branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

*Data subject* means the individual about whom the Office or agency is maintaining information in a system of records;

*Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

*Information* means papers, records, photographs, magnetic storage media, micro storage media, and other documentary materials regardless of physical form or characteristics, containing data about an individual and required by the Office in pursuance of law or in connection with the discharge of official business, as defined by statute, regulation, or administrative procedure;

*Maintain* includes collect, use, or disseminate;

*Office* means the Office of Personnel Management;

*Personnel record* means any record concerning an individual which is maintained and used in the personnel management or personnel policysetting process. (For purposes of this part, this term is not limited just to those personnel records in a system of records and subject to the Privacy Act);

*Record* means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical history, criminal history, or employment history;

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*System of records* means a group of records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

### § 293.103 Recordkeeping standards.

(a) The head of each agency shall ensure that persons having access to or involved in the creation, development, processing, use, or maintenance of personnel records are informed of pertinent recordkeeping regulations and requirements of the Office of Personnel Management and the agency. Authority to maintain personnel records does not constitute authority to maintain information in the record merely because it may be useful; both Government-wide and internal agency personnel records shall contain only information concerning an individual that is relevant and necessary to accomplish the Federal personnel management purposes required by statute, Executive order, or Office regulation.

(b) The Office is responsible for establishing minimum standards of accuracy, relevancy, necessity, timeliness, and completeness for personnel records it requires agencies to maintain. These standards are discussed in appropriate chapters of the Guide to Personnel Recordkeeping. Before approval of any agency requests for changes in recordkeeping practices governed by the Guide to Personnel Recordkeeping, the Office will examine the proposal or request in the context of such standards set forth by the agency in support of the proposal and in light of the personnel program area that requires these records.

[44 FR 65033, Nov. 9, 1979, as amended at 66 FR 66709, Dec. 27, 2001]

### § 293.104 Collection of information.

(a) Any information in personnel records whether or not those records are in a system of records, used in whole or in part in making a determination about an individual's rights, benefits, or privileges under Federal personnel programs should, to the greatest extent practicable, be collected directly from the individual concerned. Factors to be considered in de-

termining whether to collect the data from the individual concerned or a third party are when:

(1) The nature of the information is such that it can only be obtained from another party;

(2) The cost of collecting the information directly from the individual is unreasonable when compared with the cost of collecting it from another party;

(3) There is virtually no risk that information collected from other parties, if inaccurate, could result in a determination adverse to the individual concerned;

(4) The information supplied by an individual must be verified by another party; or

(5) There are provisions made, to the greatest extent practicable, to verify information collected from another party with the individual concerned.

### § 293.105 Restrictions on collection and use of information.

(a) First Amendment. Personnel records describing how individuals exercise rights guaranteed by the First Amendment are prohibited unless expressly authorized by statute, or by the individual concerned, or unless pertinent to and within the scope of an authorized law enforcement activity. These rights include, but are not limited to, free exercise of religious and political beliefs, freedom of speech and the press, and freedom to assemble and to petition the government.

(b) Social Security Number.

(1) Agencies may not require individuals to disclose their Social Security Number unless disclosure would be required;

(i) Under Federal statute; or

(ii) Under any statute, Executive order, or regulation that authorizes any Federal, State, or local agency maintaining a system of records that was in existence and operating prior to January 1, 1975, to request the Social Security Number as a necessary means of verifying the identity of an individual.

(2) Individuals asked to voluntarily (circumstances not covered by paragraph (b)(1) of this section) provide